

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ACCESS BIO, INC.,	:	
	:	
Petitioner,	:	
	:	23 Civ. 4820 (LGS)
-against-	:	
	:	
DIVISION 5 LABS, INC.,	:	<u>ORDER</u>
	:	
Respondent.	:	
	:	
-----X	:	


LORNA G. SCHOFIELD, District Judge:

WHEREAS, on December 13, 2023, Petitioner filed a letter requesting a pre-motion conference on its proposed motion that Respondent be held in contempt of Court for violation of the October 27, 2023, Order. Petitioner contends that Respondent failed to comply with the Order’s requirement that Respondent “transfer any and all withheld compliance documents, materials, regulatory documentation and retains (i.e., products held back as regulatory samples) pertaining to finished product packaged under the Contract to Access Bio.” In a responsive letter filed on December 19, 2023, Respondent stated that it does not have possession or custody of Compliance Materials and that, to the degree such materials exist, they are likely to be in the possession of a third party, Horizon;

WHEREAS, the March 5, 2024, Order instructed Respondent to file an affidavit confirming its full compliance with the October 27, 2023, Order, and stating that it does not have actual or functional possession, custody or control of the materials sought by Petitioner. Petitioner filed an affidavit on March 12, 2024, stating “Respondent, Division 5 Labs, Inc. does not have possession, custody or control of Compliance Materials sought by Petitioner” and stating “Respondent, Division 5 Labs, Inc. does not have control of Compliance Materials in Horizon’s possession.” It is hereby

ORDERED that Petitioner's request for a pre-motion conference on its proposed motion to hold Respondent in contempt is DENIED.

Dated: March 13, 2024
New York, New York



LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE